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The United Nations Human Rights Thematic Mechanisms 2000

INTRODUCTION

◆ What are the thematic mechanisms?

The United Nations (UN) thematic mechanisms consist of a number of special rapporteurs, representatives, independent experts or working groups appointed usually by the UN Commission on Human Rights (the Commission) to look at specific types of human rights violations wherever in the world they occur. They are referred to as ‘thematic’ to distinguish them from the country mechanisms, also appointed by the Commission, which look at the human rights situation in specific countries. This paper updates the Amnesty International/Law Society guide entitled *The United Nations Human Rights Thematic Mechanisms*, (AI Index IOR 40/16/99). It reflects the mandates of the mechanisms following the 56th session of the Commission held in March and April 2000.

The purpose of this paper is to provide assistance to those wishing to submit information to or follow studies undertaken by the thematic mechanisms. The primary focus of the paper is with the mechanisms that take action on individual cases but it also contains basic information about all 22 of the current thematic mechanisms. Some mechanisms may appear to be covered in more detail than others but this is because of the nature of particular mandates or because less information exists for certain mechanisms. This document is not meant to be exhaustive, but rather to serve as a guide to the scope of work of the thematic mechanisms and the types of information they seek, particularly from non-governmental sources.

The first thematic mechanism, the Working Group on Enforced or Involuntary Disappearances, was created in 1980. By 1985, with the creation of mechanisms dealing with summary or arbitrary executions and torture, the Commission had created a means of UN intervention to reports of threats to the right to life or to physical and mental integrity. Later in the 1980s, mechanisms were established to deal with religious intolerance and the use of mercenaries. During the 1990s new mandates were established to deal with the sale of children, child prostitution and child pornography; arbitrary detention; internally displaced persons; racism; freedom of opinion and expression; violence against women; the independence and impartiality of the judiciary and the dumping of toxic waste. Most recently new mandates have brought important aspects of economic and social rights on to the thematic agenda. These include the effects of foreign debt; education; extreme poverty; development; structural adjustment and migrants. At the 56th session of the United Nations Commission on Human Rights in 2000 three new mandates were formed: A Special Representative of the Secretary General on human rights defenders; a Special Rapporteur on the right to food and a Special Rapporteur on the right to adequate housing.

The thematic mechanisms have built up a reputation for being one of the UN’s most effective tools in the promotion and protection of human rights. They can receive information about human rights violations from a variety of sources, both governmental and non-governmental. Those that take up individual cases can raise allegations with the government concerned and receive its reply, without revealing the source of the allegation. Most visit countries to

UN Thematic Mechanisms 1

examine at first hand the human rights situation, although only at the invitation of the government concerned, and make recommendations that should lead to an improvement in the situation. All the mechanisms compile detailed and candid reports to the Commission which not only describe human rights situations both generally and in individual countries but include valuable developments of the legal framework relevant to their mandate and make recommendations to both governments and the Commission.

The thematic mechanisms are mandated by the Commission to carry out their task “with discretion”, but those parts of the Commission resolutions outlining their mandates are often worded in broad terms thus giving the mechanisms a relatively large measure of freedom in developing their own working methods. The mechanisms in their general approach are careful not to appear overly critical, but they are nevertheless in the valuable position of being able to expose, where it is warranted, to an international audience human rights violations in almost any country in the world, regardless (for the most part) of whether the government is party to a particular human rights treaty. For governments that seek their assistance in identifying solutions to human rights violations, the thematic mechanisms constitute a unique resource of human rights expertise.

At the 56th session of the Commission a report by the Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights was adopted by consensus. The purpose of this Working Group, as its title suggests, was to enhance the effectiveness of the mechanisms of the Commission on Human Rights. The basis of its work was a statement by the Chairperson of the 55th session of the Commission approved by consensus by the Commission on 29 April 1999. Discussion involving specific aspects from the report can be found below.

For individuals and non-governmental organizations (NGOs), the mechanisms offer a source of valuable information about current developments in human rights, a means to contribute to studies and the development of international legal norms and, in some cases, the possibility of reporting alleged human rights violations to the UN. Particularly in the latter case, it is essential that every effort is made to collect and report full information about the alleged violation. Many of the mechanisms that take up individual cases provide a questionnaire for reporting purposes. These questionnaires are available on the website of the Office of the High Commissioner for Human Rights (<http://www.unhchr.ch>).

This guide is available in Arabic, English, French, Russian, Spanish and Turkish. Copies can be found on the Amnesty International website at www.amnesty.org. or by writing to the addresses on the cover sheet.

◆ **Who are they?**

The special rapporteurs, representatives, experts and members of the working groups serve in an unpaid capacity. Although some are diplomats or government officials, increasingly they are people who have developed their expertise on human rights in the non-state sector. Members of the working groups are chosen from all five UN regional groups. They are

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appointed by the Commission following the establishment of their mandate. They are supported by staff at the Office of the High Commissioner for Human Rights in Geneva, although there is a chronic and growing problem of resources both in terms of staff support and funding for their activities. The mandates of the mechanisms are not permanent but are renewed by resolution of the Commission.

Following the adoption of the report of the Working Group on the Enhancement of the Effectiveness of the Mechanisms of the Commission on Human Rights, no individual may hold more than one mandate, country or thematic, at a given time. Mandate holders will from now on serve only two terms of three years and this will apply to both rapporteurs and members of working groups. As a transitional measure turnover of membership of working groups shall be carried out in incremental steps over a 3-year period.¹

The specific human rights violations covered by the thematic mechanisms, and the current incumbents, are listed below. The year the mechanism was established is given in brackets.

Working Group on Enforced or Involuntary Disappearances (1980)

Mr Ivan Tosevski (Macedonia), chairperson; Mr Jonas K D Foli (Ghana); Mr Diego Garcia-Sayan (Peru); Mr Agha Hilaly (Pakistan); and Mr Manfred Nowak (Austria)

Special Rapporteur on extrajudicial, summary or arbitrary executions (1982)

Ms Asma Jahangir (Pakistan)

Special Rapporteur on torture (1985)

Sir Nigel S. Rodley (United Kingdom)

Special Rapporteur on freedom of religion and belief² (1986)

Mr Abdelfattah Amor (Tunisia)

Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination (1987)

Mr Enrique Bernales Ballesteros (Peru)

Special Rapporteur on the sale of children, child prostitution and child pornography (1990)

Mrs Ofelia Calcetas-Santos (Philippines)

Working Group on Arbitrary Detention (1991)

Mr Kapil Sibal (India), chairperson; Mr Louis Joinet (France); Mr Laity Kama (Senegal); and Mr Petr Uhl (Slovakia)³

¹See UN document E/CN.4/2000/12

²Formerly the Special Rapporteur on Religious Intolerance

³Roberto Garreton had to step down from the Working Group on Arbitrary Detention as individuals are not allowed to hold double mandates as set out in the report of the Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights. He will be replaced by a representative from

Latin America to continue the geographical representation of the group. Roberto Garreton remains the Special

Representative of the Secretary-General on internally displaced persons (1993)
Mr Francis Deng (Sudan)

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (1993)
Mr Maurice Glèlè-Ahanhanzo (Benin)

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (1993)
Mr Abid Hussain (India)

Special Rapporteur on violence against women, its causes and consequences (1994)
Ms Radhika Coomaraswamy (Sri Lanka)

Special Rapporteur on the independence of judges and lawyers (1994)
Mr Param Cumaraswamy (Malaysia)

Special Rapporteur on adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (1995)
Ms Fatma Zohra Ksentini (Algeria)

Special Representative of the Secretary-General on Children and Armed Conflict (1996)
Mr. Olara Otunnu (Côte d'Ivoire)

Special Rapporteur on the right to education (1998)
Ms Katarina Tomasevski (Croatia)

Independent expert on human rights and extreme poverty (1998)
Ms. Anne-Marie Lizin (Belgium)

Independent expert on the right to development (1998)
Mr. Arjun Sengupta (India)

Expert to prepare a revised version of the basic principles and guidelines on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights (1998)⁴
Mr. Cherif Bassiouni (Egypt/USA)

Special Rapporteur on the human rights of migrants (1999)
Ms Gabriela Rodirquez Pizarro (Costa Rica)

Independent expert on the effects of structural adjustment policies and foreign

Rapporteur on the Democratic Republic of the Congo.

⁴This mandate was not renewed at the 56th Commission. See text below regarding this mandate.
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debt

on the full enjoyment of human rights, particularly economic, social and cultural rights⁵ (2000)

Dr. Fantu Cheru (USA)

Special Rapporteur on the right to adequate housing (2000)

(Post holder to be appointed)

Special Rapporteur on the right to food (2000)

(Post holder to be appointed)

Special Representative of the Secretary General on human rights defenders (2000)

(Post holder to be appointed)

◆ **What do they do?**

The activities of the Special Rapporteurs or Working Groups usually include:

Studies: The mechanisms undertake general studies. They determine which human rights violations fall within their mandate, analyze their occurrence and causes and comment on institutional aspects of national legislation and international standards. They also make general recommendations on how to prevent the human rights violation and remedy the consequences.

Receiving communications: As noted above, some of the mechanisms can receive communications alleging human rights violations in individual cases. They will act on allegations received from individuals, NGOs, governments, intergovernmental organizations and other UN institutions or offices (including other country or thematic rapporteurs).

Communications with governments: If the mechanism finds the information credible and within their mandate, it is transmitted to the government in question, either in the form of an urgent appeal or by letter. In urgent cases (such as fear of imminent execution), an appeal is transmitted to the government to protect those concerned, and provide information on the case. For less urgent cases or for general allegations, the mechanism addresses a letter to the government containing a description of the allegation and requests a reply.

Some rapporteurs actively follow up on the government's response (for example by raising the different accounts of an incident) until a satisfactory answer is received, whereas others merely summarize the government's reply in their annual report. In cases where no reply is received, reminders are sent.

Not all allegations received result in a letter or urgent appeal to the government. This may be due to a lack of resources at the Office of the High Commissioner for Human Rights or to the

⁵At the 56th Commission, the mandates of the Independent Expert on structural adjustment policies and the Special Rapporteur on the effects of foreign debt on the full enjoyment of economic, social and cultural rights were merged to form this new mandate.

quality of information received.

Annual reports to the Commission: Each year the mechanisms issue a report to the annual session of the Commission (March/April) in which they describe their activities during the previous year. The reports discuss both general issues (mandate, working methods, theoretical analysis, recommendations) and surveys the reports they have received, and the government's response, on a country-by-country basis. Some reports also contain statistics on the number of urgent appeals or requests for information sent to governments, and the number of replies by governments. Some mechanisms are requested to present an interim report to the UN General Assembly (September to December). The exception is the Special Representative of the Secretary-General on Children and Armed Conflict who is appointed by and reports to the General Assembly but presents an interim report to the annual session of the Commission.⁶

Country visits: The mechanisms also undertake on-site visits to study the situation in any country first-hand, but only at the invitation of the government. Country visits can provide the rapporteur with great opportunities for collecting information through contact with government representatives, local NGOs and victims or their relatives. Country visits are usually the subject of a separate report to the Commission and include recommendations to the government. On occasion, two or more mechanisms (thematic or country) may make a joint visit or joint representations to a government. Otherwise thematic mechanisms do not usually visit a country for which a country rapporteur has been appointed, although there are exceptions to this rule. A list of country visits carried out since 1982 is contained in the Appendix.

The recommendations contained in reports of country visits are a valuable guide to the steps that the government needs to take to stop the human rights violation in question. However, the Commission gives scant attention to the implementation of recommendations and most of the mechanisms are so under-resourced that it is rarely possible for them to follow up on country visits.

Annual meetings: The chairpersons of the working groups, special rapporteurs, country rapporteurs, special representatives and various experts meet on an annual basis to "harmonize and rationalize their work" as required by the *Vienna Declaration and Programme of Action* (Part II, paragraph 95). The first of these meetings took place in Geneva in 1994. The issues discussed at these meetings include working relations between the mechanisms and the Commission, the implementation of thematic resolutions adopted by the Commission, cooperation with the High Commissioner for Human Rights, the integration of women's rights in mandates, and the question of resources and administration, resource room support services and use of media.

Other activities: The mechanisms are involved in other activities including requests to governments and often NGOs for information relevant to studies they are undertaking. They also attend conferences, issue press releases and undertake other activities to make their work better known.

◆ How to contact the thematic mechanisms

⁶Document references to reports to the General Assembly have been omitted from the main text of this paper but are available on the website of the High Commissioner for Human Rights (<http://www.unhchr.ch>).
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To submit information to or for more information about all the thematic mechanisms please write to the relevant mechanism at the following address:

Office of the High Commissioner for Human Rights
United Nations Office in Geneva
1211 Geneva 10
Switzerland

Fax: +41 22 917 9006 or 9003
Email: lgariup.hchr@unog.ch

Full information on the Commission and the work of the thematic mechanisms, including recent reports, resolutions and to access the forms or questionnaires designed to assist those wishing to submit information questionnaires, can be found at the following website address: <http://www.unhchr.ch>.

GENERAL MANDATE

GENERAL MANDATE GENERAL MANDATE

GENERAL MANDATE In addition to resolutions specific to each mechanism, the Commission adopts resolutions at each of its sessions instructing all the mechanisms to take into account particular recommendations and concerns in the execution of their mandates. At recent sessions these have included the following elements.

Human rights and thematic procedures⁷

The Commission has asked the mechanisms to include in their reports:

➤ information furnished by governments on follow-up to communications sent by the mechanisms;

➤ comments on problems of responsiveness and the result of analyses in order to carry out their mandates more effectively;

⁷Resolutions 1996/46, 1997/37, 1998/74, Decision 1999/110, Resolution 2000/86.

- suggestions as to areas where governments might request relevant assistance through the programme of advisory services and technical cooperation administered by the Office of the High Commissioner for Human Rights;
- gender-disaggregated data and an analysis of the characteristics and practice of human rights violations that were specifically or primarily directed against women, or to which women were particularly vulnerable;
- information on the situation of human rights defenders and how their protection can be enhanced;
- age-disaggregated data and information about human rights violations directed primarily against children, or to which children are particularly vulnerable

Elimination of violence against women⁸

The Commission has requested all governments to cooperate with and assist the Special Rapporteur on violence against women in the performance of her mandate - particularly to respond to requests by the Special Rapporteur for information on violence against women, its causes and consequences. In addition, almost all the mechanisms have been asked by the Commission to pay particular attention to the gender-specific violations of the human rights in the framework of their specific mandate.

Promotion of the right to freedom of opinion and expression⁹

The Commission has invited the mechanisms to pay attention to situations of persons detained, subjected to violence or ill-treatment, or discriminated against for having exercised their right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) and other relevant human rights instruments; and to note any deterioration in the right to freedom of expression.

Advisory services and technical cooperation¹⁰

The Commission has asked the mechanisms to include in their recommendations, wherever appropriate, proposals for specific projects to be realized under the program of advisory services and technical cooperation organized by the Office of the High Commissioner for

⁸Resolutions 1995/85, 1996/49, 1997/44, 1998/52, 1999/42, 2000/45.

⁹Resolutions 1995/40, 1996/53, 1997/27, 1998/42, 1999/36, 2000/38.

¹⁰Resolutions 1995/53, 1996/5, 1997/46, 1998/57, 2000/80.

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Human Rights.

Rights of persons belonging to national or ethnic, religious and linguistic minorities¹¹

The Commission has asked the mechanisms to continue to give due regard, within their respective mandates, to the promotion and protection of the rights of persons belonging to minorities, and to furnish, as appropriate, information on the application of the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992).

Human rights and mass exoduses and displaced persons¹²

The Commission has asked the mechanisms to seek information, where appropriate, and include information and recommendations in their reports, on problems resulting in mass exoduses of populations or impeding their voluntary return home and situations which have already created or could create internal displacement.

Internally displaced persons¹³

The Commission has invited the mechanisms to pay attention to issues of internal displacement, and to continue to seek information on situations which have already created or could create internal displacement and to include relevant information and recommendations thereon in their reports.

Cooperation with representatives of UN bodies¹⁴

The Commission has called on governments to refrain from all acts of intimidation or reprisal against those who seek to cooperate with UN human rights bodies, and asks the representatives of those bodies, including the thematic mechanisms, to help prevent the hampering of access to UN human rights procedures. The thematic mechanisms are asked to include in their reports to the Commission information on any such incidents and action taken by them in response.

It is important that any representatives of NGOs who are prevented from cooperating from UN human rights bodies report such incidents promptly to the Office of the High Commissioner for Human Rights.

11Resolutions 1995/24, 1996/20, 1997/16, 1998/19, 1999/48, 2000/52.

12Resolutions 1995/88, 1996/51, 1997/75, 1998/49,2000/55.

13Resolutions 1995/57, 1996/52, 1997/39, 1998/50, 1999/47, 2000/53.

14Resolutions 1995/75, 1996/70, 1997/56/ 1998/66, 1999/16, 2000/22.

Rights of the child¹⁵

The Commission has asked the thematic mechanisms to pay special attention to particular situations where children are in danger and where their rights are violated, including street children, the exploitation of child labour, children in armed conflicts and children who are victims of sale, child prostitution and child pornography.

Impunity¹⁶

The Commission has invited the mechanisms to give due consideration to the issue of impunity in their work.

Human rights and unilateral coercive measures¹⁷

The Commission has invited all the special rapporteurs and existing thematic mechanisms to pay due attention to the negative impact and consequences of unilateral coercive measures.

Hostage - taking¹⁸

The Commission has urged all thematic special rapporteurs and working groups to continue to address, as appropriate, the consequences of hostage-taking in the exercise of their mandates.

Human Rights and Terrorism¹⁹

The Commission has urged all relevant human rights mechanisms and procedures, as appropriate, to address the consequences of the acts, methods and practices of terrorist groups.

Juvenile Justice²⁰

The Commission has called upon special rapporteurs, special representatives and working groups of the Commission on Human Rights to continue to give special attention to questions relating to the effective protection of human rights in the administration of justice,

¹⁵Resolutions 1995/79, 1996/85, 1997/78, 1998/76, 1999/80, 2000/85.

¹⁶Resolutions 1998/53, 1999/34, 2000/68.

¹⁷Resolution 2000/11.

¹⁸Resolution 2000/29.

¹⁹Resolution 2000/30.

²⁰Resolution 2000/39

including juvenile justice, and to provide, wherever appropriate, specific recommendations in this regard, including proposals for advisory service and technical assistance measures.

Incompatibility between democracy and racism²¹

The Commission has invited the mechanisms of the Commission on Human Rights, in particular the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, to continue to pay particular attention to violations of human rights stemming from the rise of racism and xenophobia in political circles and society at large, especially as regards their incompatibility with democracy.

Human rights of persons with disabilities²²

The Commission has invited all special rapporteurs, in carrying out their mandates, to take into account the situation and human rights of persons with disabilities.

World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

Most of the mechanisms have been asked to contribute in any way they can, within their mandates, to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

Information technology

A number of mandates have set up databases or are making use of the internet to share or receive information from those wishing to submit information to the mechanisms. More information about the databases and the internet can be found under the individual thematic entry in this paper or by visiting the website of the Office of the High Commissioner for Human Rights.

21Resolution 2000/40

22Resolution 2000/51

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SUMMARIES OF THE THEMATIC MECHANISMS

(LISTED BY DATE OF ESTABLISHMENT)

WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES (WGEID)

Mandate and working method

The WGEID is mandated to examine questions relevant to enforced or involuntary disappearance of persons, and to assist families in determining the fate and whereabouts of their missing relatives. The WGEID endeavours to establish a channel of communication between the families and governments concerned, often through NGOs, with a view to ensuring that individual cases are investigated and the whereabouts of the “disappeared” person is clearly established, irrespective of whether the person is alive or dead.²³

The WGEID’s mandate is primarily based on the International Covenant on Civil and Political Rights (1966) and the Declaration on the Protection of All Persons from Enforced Disappearance (1992) (the Declaration). The WGEID has a special role to play with regard to the Declaration. It should be noted that the WGEID participated actively in the elaboration of the Declaration and welcomed it as a milestone in the united efforts to combat the practice of “disappearance”. The WGEID has been entrusted by the Commission to monitor states’ compliance with their obligations deriving from the Declaration. The Commission has requested WGEID to give full attention to the provisions of the Declaration and its implementation.

²³The WGEID’s role ends when the fate and whereabouts of the missing person have been clearly established as a result of investigations by the government or the family, irrespective of whether that person is alive or dead. *Amnesty International/The Law Society - July 2000 AI Index: IOR 40/20/00*

Definition of “disappeared”

In defining “disappearance”, the WGEID applies the definition provided in the preamble to the Declaration, which reflects many of the WGEID’s proposals and recommendations, and the implementation of which is central to its mandate. A “disappeared” person is:

- a clearly identified individual;
- who has been arrested, detained or abducted against his or her will or otherwise deprived of his or her liberty by (a) officials or different branches or levels of government, or (b) organized groups or private individuals acting on behalf of or with the support (direct or indirect), permission or acquiescence of a government (consequently WGEID does not deal with “disappearances” attributed to opposition groups); and
- these forces then conceal the whereabouts of that person or refuse to disclose that person’s fate or acknowledge that the person was deprived of their liberty, thus placing that person outside the protection of the law.

Examining individual cases

The WGEID receives and examines reports of “disappearances”. To be admissible a communication must be submitted in writing and clearly indicate the identity of the sender. The submission originates from the family or friends of the missing person but is often channelled through an NGO. The WGEID may not take any action in an individual case on its own initiative.

The WGEID constantly urges senders of reports to provide them with information that contains at least a minimum of data. Submissions must fulfil the following basic criteria before the WGEID will take up a case:

- full name of the missing person and relevant identification data (for example, national identity document number or photograph);
- date of "disappearance" - day, month and year of arrest, abduction or when last seen. If the missing person was last seen in a place of detention, an approximate indication is sufficient;
- place of arrest or abduction or where the missing person was last seen. At least an indication of the location is required;
- parties presumed to have carried out the arrest or abduction or to hold the missing person in unacknowledged detention;
- steps taken to determine the fate or whereabouts of the missing person or at least an

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indication that efforts to resort to domestic remedies were frustrated or have otherwise been inconclusive.

- identity of the person or organization submitting the report (which will be kept confidential on request).

The WGEID encourages those submitting information to include supporting documentation (a photograph of the missing person or witness statements, for example) wherever possible but emphasizes that copies, not original documents, should be sent.

Handling of cases

The WGEID's action is based on the principle that the state is responsible for human rights violations committed within its territory and is obliged to prevent such violations or to investigate them when they have occurred. The WGEID will therefore not process individual cases of "disappearance" perpetrated by irregular or insurgent groups fighting a government on its own territory.

It is important to confirm that the "disappearance" is not in fact a case of short-term unacknowledged detention, in which case it should not be submitted to the WGEID.

After determining whether the report of "disappearance" complies with the above criteria, the WGEID transmits the case to the government concerned, requesting the authorities to carry out investigations and to inform the WGEID of the results.

Urgent action procedure

Cases that occurred within three months preceding the receipt of the report of the "disappearance" by the WGEID are transmitted directly to the government concerned. This is referred to as the *urgent action procedure*.

Replies from governments and clarification of cases

Any reply from the government containing detailed information on the fate and whereabouts of a "disappeared" person is transmitted to the source. If the source does not respond within six months of the date from which the government's reply was communicated to it, or if it contests the government's information on grounds which are considered unreasonable by the WGEID, the case is considered clarified and is accordingly listed under the heading "Cases clarified by the government's response" in the statistical summary of the annual report. If the source contests the government's information on reasonable grounds, the government is so informed and asked to comment and the case is kept open.

The WGEID reminds every government concerned at least once a year of the cases which have not yet been clarified, and twice a year of all urgent actions cases transmitted during the preceding six months for which no clarification has been received.

To facilitate the submission of cases, the WGEID has prepared a standard format for the reporting alleged “disappearances” which can be obtained from the website of the Office of the High Commissioner for Human Rights (<http://www.unhchr.ch>).

THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS

Mandate and working method

The mandate of the Special Rapporteur is primarily based on the Universal Declaration of Human Rights (1948), articles 4, 6, 14 and 15 of the International Covenant on Civil and Political Rights (1966) and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (1989).

The Special Rapporteur will take action on cases submitted by individuals, NGOs, governments or intergovernmental organizations that meet the following criteria:

- Violations of the right to life in connection with the death penalty. The Special Rapporteur intervenes when capital punishment is imposed after an unfair trial, or in case of a breach of the right to appeal or the right to seek pardon or commutation of sentence. The Special Rapporteur also intervenes if the convicted person was a minor at the time of the offence, or is a mentally retarded or insane person, a pregnant woman or a recent mother;
- Death threats and fear of imminent extrajudicial executions by state officials, paramilitary groups, private individuals or groups cooperating with or tolerated by the government, as well as unidentified persons who may be linked to the categories mentioned above;
- Deaths in custody owing to torture, neglect or the use of force, or life-threatening conditions of detention;
- Deaths owing to the use of force by law enforcement officials, or persons acting in direct or indirect compliance with the state, when the use of force is inconsistent with the criteria of absolute necessity and proportionality;
- Deaths owing to attacks by security forces of the state, by paramilitary groups, death squads or other private forces cooperating with or tolerated by the government;
- Violations of the right to life during armed conflicts, especially of the civilian population, contrary to humanitarian law;
- Expulsion or *refoulement* of persons to a country where their lives are in danger;

➤ Genocide;

➤ Breach of the obligation to investigate alleged violations of the right to life and to bring those responsible to justice;

➤ Breach of the obligation to provide adequate compensation to victims of violations of the right to life.

In her latest report to the Commission,²⁴ the Special Rapporteur highlighted the following areas as “issues of special concern”: capital punishment; death due to attacks by security forces, paramilitary groups or private forces cooperating with or tolerated by the State; traditional practices affecting the right to life - “honour killings”; violations of the right to life of human rights defenders and journalists and impunity.

Examining individual cases

The following minimum information is needed:

- full particulars of the victim;
- date and place of the incident and description of how it occurred;
- name of the alleged perpetrators, if known, and explanation of the reasons why they are suspected to be responsible; if perpetrators are non-state agents, details on how these forces or individuals relate to the state;
- name and full address of the organization or individual submitting the allegations to the Special Rapporteur.

Handling of cases

Alleged cases of extrajudicial, summary or arbitrary executions are transmitted to the governments concerned. The government is requested to respond with information about the progress and results of investigations conducted with respect to these cases, penal or disciplinary sanctions imposed on the perpetrators, as well as compensation provided to the family of the victim.

Urgent action procedure

Urgent appeals may be sent by the Special Rapporteur in cases that evince a fear of imminent extrajudicial, summary or arbitrary executions. These cases include death threats and fear of imminent execution of death sentences in contravention of the limitations on capital punishment set forth in the pertinent international instruments, including those mentioned

²⁴See UN Document E/CN.4/2000/3

previously. The Special Rapporteur may also send urgent appeals to governments after having been informed of the imminent expulsion of persons to a country where they are at risk of extrajudicial, summary or arbitrary execution.

When transmitting *urgent actions*, the Special Rapporteur appeals to the government concerned to ensure effective protection of those under threat or at risk of execution. The Special Rapporteur also urges the authorities to undertake full, independent and impartial investigations with respect to those violations, to bring the perpetrators of extrajudicial executions to justice, and to protect the rights of the victim's family. Governments are urged to keep the Special Rapporteur fully informed of all steps taken.

Replies from governments and clarification of cases

The Special Rapporteur may request further or updated information from the government or the source of the allegation. In cases where the violation has already taken place, the Special Rapporteur will focus on the obligation of the state to carry out a full and impartial investigation, to bring the perpetrators of extrajudicial executions to justice and protect the rights of the victim's family. A case will be closed only when these conditions have been fulfilled.

To facilitate the submission of cases, the Special Rapporteur has prepared a standard format for the reporting of alleged extrajudicial, summary or arbitrary executions which can be obtained from the website of the Office of the High Commissioner for Human Rights (<http://www.unhchr.ch>).

SPECIAL RAPPORTEUR ON TORTURE

Mandate and working method

The mandate of the Special Rapporteur on torture is primarily based on the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), which guarantee the right not to be tortured or subjected to cruel, inhuman or degrading treatment or punishment. At the 56th session of the Commission, the resolution on torture (2000/43), included an innovative paragraph which draws the attention of Governments to the "Principles on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment" which form part of the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). The Protocol is the result of the contributions from many sources, including non-governmental organizations. The resolution requests the Office of the High Commissioner for Human Rights to disseminate the Principles widely and encourages Governments to "reflect upon them as a useful tool in efforts to combat torture". For more information about the Manual and the Principles see

the Special Rapporteur's latest report to the Commission.²⁵

In addition to the more obvious cases of torture, the following are some examples of other situations which the Special Rapporteur classifies as torture:

Physical torture including: exposure to excessive light or noise; administration of certain drugs (for example apomorphine which causes vomiting, curare which causes asphyxia); prolonged denial of rest, sleep; prolonged denial of food; prolonged denial of sufficient hygiene; prolonged denial of medical assistance; judicially ordered corporal punishment; custodial rape and sexual abuse.

Psychological or mental torture including: total isolation and sensory deprivation (these conditions, if prolonged, can entail serious and often irreversible psychosomatic, intellectual and emotional problems); being kept in constant uncertainty in terms of space and time; threats to kill or torture relatives; total abandonment; simulated executions; "disappearance" of relatives.

Examining individual cases

Information on the torture of a person should be transmitted to the Special Rapporteur in written form and should contain the following minimum information:

- full particulars of the victim;
- date on which the incident(s) of torture occurred (at least as to the month and year); place where the person was seized and location at which the torture was carried out (if known);
- indication of the forces carrying out the torture;
- description of the form of torture used and any injury suffered as a result;
- identity of the person or organization submitting the report.

Copies of any relevant corroborating documents, such as medical or police records should be supplied where it is believed that such information may contribute to a fuller account of the incident. Only copies and not originals of such documents should be sent.

Handling of cases

The Special Rapporteur transmits to the government concerned summaries of all credible and reliable information addressed to him alleging violations in individual cases as well as practices of torture. He requests the government to look into those allegations and to provide

²⁵See UN Document E/CN.4/2000/9

him with relevant information on the allegations, to prosecute and impose appropriate sanctions on any persons guilty of torture regardless of rank, office or position they may hold; to take effective measures to prevent the recurrence of such acts; and to compensate the victims or their relatives in accordance with the relevant international standards.

Urgent action procedure

The Special Rapporteur will make an urgent appeal whenever he receives information that an individual has been arrested and there are well grounded fears that person may be subjected to torture. The appeal is sent to the government concerned drawing its attention to the case, with the object of preventing or stopping an act of torture. In such cases actual evidence of torture taking place or having taken place is not required. The Special Rapporteur only has to determine whether there are reasonable grounds to believe that a person is held under circumstances indicating an credible risk of torture. Deaths as a result of torture are dealt with by the Special Rapporteur on extrajudicial, summary or arbitrary executions.

Replies from governments and clarification of cases

Replies from governments are processed and the sources are consulted. If warranted the dialogue continues, and from these communications the Special Rapporteur draws conclusions and makes recommendations to governments.

The Special Rapporteur acknowledges where appropriate the existence of persistent acts of violence, including torture, committed by armed groups. However, he transmits allegations of torture only to governments, as the authorities responsible under international human rights standards.

To facilitate the submission of cases, the Special Rapporteur has prepared a standard format for reporting allegations of torture which can be obtained from the website of the Office of the High Commissioner for Human Rights (<http://www.unhchr.ch>).

SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION AND BELIEF

Mandate and working methods

The Special Rapporteur on freedom of religion and belief is mandated to examine incidents and governmental action in all parts of the world inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981) and to recommend remedial measures for such situations.

The Special Rapporteur has identified seven categories of violation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.²⁶

²⁶See UN Document E/CN.4/1999/58.
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These are:

➤ **Violations of the principle of non-discrimination in matters of religion and belief:** policies, laws and regulations, discriminatory practices and acts against (a) certain communities with regard to religion and belief, particularly when such communities are minorities or do not subscribe to the official religion or recognized religions and beliefs, and (b) against women based on interpretations of religion and traditions supposedly based on religion or belief.

➤ **Violations of the principle of tolerance in matters of religion and belief:** these are policies, practices and acts of religious intolerance on the part of the state and society, particularly of communities in matters pertaining to religion and belief, of politico-religious groups and other non-state groups, the most marked manifestations of which are connected with the problem of religious extremism as well as the role of the media in propagating a climate of intolerance.

➤ **Violations of freedom of thought, conscience and religion or belief:** these are policies, laws and regulations, practices and acts contrary to the principle of conscientious objection²⁷ and the freedom to change and keep one's religion and belief.

➤ **Violations of the freedom to manifest one's religion or belief:** these comprise policies, laws and regulations, practices and acts constituting controls, interference, prohibitions and restrictions on freedom to manifest one's religion or belief.

➤ **Violations of the freedom to dispose of religious property:** these are policies, practices and acts that impair the freedom to dispose of religious property in the form of non-restitution of confiscated religious property; refusal of access to places of worship (obstacles to, and even banning of, construction or rental; restrictions on the number of followers); a tax against enclosure and destruction of places of worship, cemeteries and denominational schools, and confiscation of religious property (including religious works).

➤ **Violations of physical integrity and health of persons (religious figures and the faithful):** these are policies, practices and acts in the form of threats, ill-treatment (including slavery and rape, arrest and detention, forced disappearances, and even death sentences, executions and killings).

➤ **Violations affecting women:** this refers to the specific application to women of the six categories of violations listed above.

The Special Rapporteur is continuing to examining the contribution of education to the more

²⁷The Commission adopts, usually at every other session, a resolution on conscientious objections to military service. The most recent, 2000/34, includes a reminder to states of their recommendation that conscientious objectors should be provided with forms of alternative service which are compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature.

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effective promotion of religious tolerance. He has conducted a survey, by means of a questionnaire addressed to states, on problems related to freedom of religion and belief from the standpoint of the curricula and text books of primary or elementary and secondary educational institutions. He is continuing his work to establish a compendium of national enactments concerning freedom of religion and belief. His aim is to create a basic reference work, to be updated regularly and made publicly available in a databank on an Internet site.

Following resolutions 1999/39 and 1999/78 encouraging the Special Rapporteur to contribute effectively to the preparatory process for the UN World Conference against racism, racial discrimination, xenophobia and related intolerance and resolution 1999/82 entitled "Defamation of religions", the Special Rapporteur describes the follow-up to the Commission's initiatives concerning the World Conference and the resolution on defamation as well as his own initiatives concerning studies, legislation and the culture of tolerance in his latest report to the Commission.²⁸

Examining individual cases

The procedure for communications about individuals is similar to that used by other thematic mechanisms. The Special Rapporteur will transmit information concerning alleged violations to the state concerned, request that the allegations be investigated and that he be kept informed of the results.

SPECIAL RAPPORTEUR ON THE USE OF MERCENARIES AS A MEANS OF IMPEDING THE RIGHT OF PEOPLES TO SELF-DETERMINATION

Mandate and working method

The Special Rapporteur on mercenaries is mandated to seek and receive credible and reliable information from governments, specialized agencies and intergovernmental and non-governmental organizations on the use of mercenaries.

The Special Rapporteur on Mercenaries is mandated to seek and receive credible and reliable information from governments, specialised agencies and intergovernmental and non-governmental organizations on the use of mercenaries.

In his latest report to the Commission,²⁹ the Special Rapporteur reports on his programme of activities, including a reference to his January 1999 visit to the United Kingdom³⁰ and a full account of his visit to Cuba in September 1999; private firms providing security services and

²⁸See UN Document E/CN.4/2000/65

²⁹UN Document E/CN.4/2000/14

³⁰The full report is contained in his report to the General Assembly, UN Document A/54/14

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military assistance; and the current status of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. This treaty needs three more states to ratify or accede to it for it to come into force.

The Commission's resolution,³¹ among other points, also called for ratification of this convention. It decided to convene a workshop on mercenary activity before the 55th session of the General Assembly and asked the High Commissioner to report on this workshop to the 57th session of the Commission. The Special Rapporteur was asked to consult states, intergovernmental and non-governmental organizations about the implementation of the resolution and to report with specific recommendations to the next session of the Commission.

The report of the Bureau of the 54th session of the Commission on the Review of the Mechanisms recommended that the mandate of the Special Rapporteur on the use of mercenaries be terminated and the matter should henceforth be considered directly in the General Assembly. However, the Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights decided it was not in a position to make a recommendation on this issue. It noted that the mandate is due for renewal in 2001 and recommends a decision regarding continuation, adjustment or termination should be considered at this time.

This mechanism does not take up individual cases.

SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

Mandate and working method

The mandate of the Special Rapporteur is to study the phenomena of the sale of children, child prostitution and child pornography and make recommendations for preventing such abuses. Her mandate is carried out within the framework of international human rights instruments relevant to children, particularly the Convention on the Rights of the Child (1989).

The Special Rapporteur has studied the involvement of children in commercial sex, prostitution and pornography, considered issues definition, causation, international and national developments and their effects on children, the sale of children and made recommendations.

In earlier reports, the Special Rapporteur identified and analyzed the roles of three catalysts which she felt were indispensable in the fight for the protection of children, namely the

³¹Resolution 2000/3

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justice system, education and the media. She has made extensive recommendations on how these catalysts could be most effective in responding to children who are entrenched in situations of abuse and in the prevention of such abuses. The Special Rapporteur has now identified another catalyst - perhaps the most fundamental catalyst needed to be examined - the family.

In June 1999 the Special Rapporteur circulated a questionnaire to governments, relevant UN bodies and agencies, intergovernmental and non-governmental organizations soliciting information to be used in her report to the Commission on the following issues:

- studies that have been carried out about this subject, especially those linking abuse and neglect in the home and subsequent entry into prostitution;
- How cases of abuse and neglect come to the attention of Governments, agencies and organizations;
- Statistical information regarding the relationship between the abuser and the abused, the frequency of the abuse and the specific type or nature of abuse that the Government, or organization has had experience of ;
- Information concerning the legal structure to deal with situations of abuse and neglect including who can bring a complaint on behalf of the abused/neglected child and what legal or other resources are available to children who have been abused or neglected;
- Any national, regional and international initiatives that have been taken to reduce the incidence of domestic violence and neglect.

This mechanism does not take up individual cases.

WORKING GROUP ON ARBITRARY DETENTION (WGAD)

Mandate and working method

The WGAD is mandated to investigate cases of deprivation of liberty imposed arbitrarily in contravention of the Universal Declaration of Human Rights (1948), the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988) and other relevant international instruments accepted by the states concerned.

In 1997 the Commission additionally mandated the WGAD to devote all necessary attention to reports concerning the situation of migrants and asylum seekers who are allegedly being held in prolonged administrative custody without the possibility of

administrative or judicial remedy, and to include observations on this question in its report.³² That resolution also confirmed some restrictions on the work of the WGAD which the Commission had called for, namely not to apply the International Covenant on Civil and Political Rights (1966) or other relevant international human rights treaties to states that are not yet a party to such treaties, and to give “views” rather than take “decisions” on cases. The WGAD was asked to re-examine its methods of work, particularly regarding the admissibility of communications received, and to be flexible in the application of the 90-day deadline for governments’ replies to its inquiries.

The WGAD may, at the invitation of governments, make visits to places of detention in order to satisfy itself not only of conditions of detention, but also with the legal status of prisoners.

Types of arbitrary detention

As a general rule, in dealing with situations of arbitrary deprivation of liberty, the WGAD refers to the following three categories :

➤Category I: cases in which the deprivation of freedom is arbitrary as it manifestly cannot be linked to any legal basis such as continued detention after the completion of a sentence or despite an amnesty law applicable to the prisoner;

➤Category II: cases of deprivation of freedom resulting from the exercise of fundamental rights or freedom guaranteed by the Universal Declaration of Human Rights (1948) specifically articles 7, 13, 14, 18, 19, 20 and 21 and, for state parties to the International Covenant on Civil and Political Rights (1966) specifically articles 12, 18, 19, 21, 22, 25, 26 and 27. These articles refer to freedom of thought, conscience and religion; opinion and expression; and peaceful assembly and association ;

➤Category III: cases in which non-observance of all or part of the international provisions relating to the right to a fair trial is such that it confers on the deprivation of freedom, of whatever kind, an arbitrary nature. It should be noted that detention can be arbitrary both during pre-trial judicial or administrative detention as well as post-trial imprisonment.

The WGAD has provided a detailed list of unfair pre-trial and post-trial situations of arbitrary detention which it considers to be arbitrary.³³

Examining individual cases

³²Resolution 1997/50.

³³See report UN Doc E/CN.4/1992/20

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The WGAD studies complaints about individual cases of alleged arbitrary detention to establish whether a detention is arbitrary. Until the WGAD has sufficient information to come to a decision, the case will remain open. The WGAD's involvement in a case is generally triggered by communications sent to it by the family or representative of a detained person, NGOs, governments or intergovernmental organizations. The WGAD may, on its own initiative, take up cases which might constitute arbitrary deprivation of liberty.³⁴

Cases must be submitted in writing and should contain, as far as possible, the following facts:

- the identity of the person arrested or detained;
- the date and place of arrest or detention; forces presumed responsible; and all other available information;
- the reasons given by the authorities for the arrest or detention or the offences;
- the legislation relevant to the case;
- the steps taken at the national level to verify the detention, especially approaches to the administrative and legal authorities; the results or reasons why such steps were ineffective or were not taken;
- a short account of the reasons for regarding this case as one of arbitrary detention;
- full particulars of the person(s) submitting the information.

Handling of cases

Offering the government an opportunity to refute the allegations

Cases which are considered to be arbitrary are transmitted to the government concerned, with an invitation to respond to the WGAD, preferably within 90 days, on both the facts of the cases and the relevant legislation. The government is also requested to provide information on the progress and outcome of any investigation that may have been ordered.³⁵

The WGAD's views

In the light of the information collected, the WGAD reaches one of the following opinions:

- if the person has been released since the WGAD took up the case, it can decide in

³⁴It was authorized to do so by Commission resolution 1993/36.

³⁵The WGAD decided, as of its 18th session in May 1997, to indicate to governments to which it addresses individual cases that if they desire an extension of the 90-day deadline that providing a reply, they should inform the WGAD of the reasons of such a request so that it may be able, if necessary, to grant a further period of a maximum of two months for providing their reply.

principle to file the case. Nevertheless, the WGAD reserves the right to decide whether or not the detention was arbitrary, when the circumstances of the detention raise a matter of principle or are of a particularly serious nature;

➤the WGAD may consider that the case is not one of arbitrary detention;

➤the WGAD may keep a case pending while it seeks additional information from the government concerned or the source of the complaint;

➤the WGAD may file the case if it considers that it is not in a position to obtain sufficient information;

➤if the WGAD considers that the arbitrary nature of the detention is established, it declares the detention arbitrary and makes recommendations to the government concerned.

The WGAD's "deliberations"

The WGAD may also adopt a position of principle, known as a "deliberation", on matters of a general nature in order to develop a consistent set of principles and assist states, for purposes of prevention, to guard against the practice of arbitrary detention. The WGAD has already adopted such "deliberations", on the questions of house arrest and deprivation of freedom for purposes of rehabilitation through labour. By means of these "deliberations" it defines the criteria on the basis of which deprivation of freedom linked with such situations may become arbitrary. At its 26th session, the Group adopted Deliberation Number Five concerning the situation of immigrants and asylum -seekers. The principles outlined in the "deliberations" will serve to determine whether or not the deprivation of liberty of asylum seekers and immigrants may be arbitrary.

Urgent action procedure

The WGAD has developed an *urgent action procedure* for cases in which there are sufficiently reliable allegations that a person is being detained arbitrarily and that the continuation of the detention may constitute a serious danger to that person's health or life. The *urgent action procedure* may also be resorted to in other circumstances, when the WGAD deems that the situation warrants such an appeal (such as failure to release a person despite a court order to that effect). In such cases, an *urgent appeal* is sent to the government concerned, requesting the government to take prompt measures to ensure that the detained person's right to life and to physical and mental integrity is respected. Such *urgent appeals* in no way prejudice the WGAD's final assessment of whether the detention is arbitrary. When the state of health of the detained person appears to give grounds for particular concern the WGAD may also appeal to the government to consider releasing that person without delay.

Replies from governments and clarification of cases

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Any reply sent by the government to the WGAD is transmitted to the source for any further comments and observations. If the government has not communicated its response within the deadline, the WGAD may take a position on the case on the basis of the information available.

To facilitate the submission of cases, the WGAD has prepared a standard format for reporting allegations of arbitrary detention which can be obtained from the website of the Office of the High Commissioner for Human Rights (<http://www.unhchr.ch>).

REPRESENTATIVE OF THE SECRETARY-GENERAL ON INTERNALLY DISPLACED PERSONS

Mandate and working method

This mandate was created in 1993 by the UN Secretary-General, at the request of the Commission, to seek views and information from all governments on the human rights issues related to internally displaced persons, including an examination of existing international, human rights, humanitarian and refugee law and standards and their applicability to the protection of and assistance to internally displaced persons.

As the Special Rapporteur notes in his report to the Commission in 1999,³⁶ the development of a normative legal framework has been a major part of his work. He has so far published a two part compilation and analysis of legal norms and a report on Guiding Principles on Internal Displacement (Guiding Principles). The first part of his compilation and analysis³⁷ examined the relevant provisions of international human rights, humanitarian and, by analogy, refugee law once people had been displaced. The study concluded that, while existing law covers many aspects of relevance to the situation of the internally displaced, there exist significant gaps and grey areas as a result of which the law fails to provide sufficient protection to internally displaced persons.

The second part of the compilation and analysis³⁸ examined the legal aspects relating to the protection of arbitrarily displaced persons and found that many provisions in international law point to a general rule according to which forced displacement may be undertaken only exceptionally, on a non-discriminatory basis and not arbitrarily imposed. However, this protection is largely only implicit. The Guiding Principles,³⁹ based on the compilation and analysis, consolidate the numerous principles relevant relating to the protection of and assistance to internally displaced persons. In the resolution related to internally displaced persons, resolution 2000/53, the Commission noted with appreciation

36See UN Document E/CN.4/1999/79

37See UN Document E/CN.4/1996/52/Add.2

38See UN Document E/CN.4/1998/53/Add.1

39See UN Document E/CN.4/1998/53/Add.2

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that UN agencies, regional and non-governmental organizations are making use of the Guiding Principles in their work and encouraged further dissemination and application of the Guiding Principles. The Commission asked the Special Representative to continue to initiate or support regional and other seminars in consultation with regional organizations, inter-governmental and non-governmental organizations and other relevant institutions to ensure the dissemination and promotion of the Guiding Principles. Globally a number of materials have been developed this past year to promote the application of the Guiding Principles. At the request of international agencies and non-governmental organizations, the Representative commissioned a Handbook for Applying the Guiding Principles on Internal Displacement to explain the principles in a non-technical manner. The Handbook will be published by the Office for the Coordination of Humanitarian Affairs⁴⁰

The Representative of the Secretary-General on internally displaced persons does not take up individual cases. He has, however, produced a number of country studies entitled *Profiles in Displacement*. These are listed in the Appendix.

A development towards a more systematic response to the global crisis of internal displacement is the creation of a global information management system on internal displacement. In December 1999, the database was launched publicly on the Internet (<http://www.idpproject.org>) with 14 country profiles.⁴¹ Additional country profiles will continue to be added over the coming years and eventually all countries affected by internal displacement (currently estimated at over 50) are to be included. It is expected that country profiles regarding crisis situations will be updated regularly, while other situations will be revised at least twice a year. Some of the objectives of the database include: offering a central focal point for information regarding internally displaced persons; assisting humanitarian organizations in field operations by complementing existing information networks and offering a major NGO focal point for advocacy and information on the protection and assistance needs of the internally displaced. NGOs, United Nations agencies, academic institutions and regional organizations engaged in the issue of internal displacement are encouraged to submit information for inclusion in the database.

⁴⁰http://www.relief.int/ocha_ol/index.html.

⁴¹Afghanistan, Angola, Azerbaijan, Bosnia and Herzegovina, Burundi, Colombia, Democratic Republic of the Congo, Myanmar (Burma), Peru, Sierra Leone, Somalia, Sri Lanka, Sudan and Uganda.
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SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

Mandate and working method

The Special Rapporteur's mandate is based on the International Convention on the Elimination of All Forms of Racial Discrimination (1965). He is mandated to report on allegations of, and make general recommendations on, contemporary forms of racism, discrimination based on race, xenophobia and related intolerance. He has given particular attention to these violations in developed countries and to racism and discrimination directed against migrant workers and other vulnerable groups and the examination of measures adopted by governments to overcome racism and racial discrimination. In his latest report,⁴² the Special Rapporteur reported on contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance under the following headings: discrimination against blacks, anti-semitism and discrimination against the Roma. The Special Rapporteur also demonstrated that discriminatory application of the death penalty still continues in the United States of America. In addition, he included information on legislative and judicial measures taken or envisaged by governments where he has carried out field visits. Follow-up measures from South Africa, France and Kuwait are summarized.

In 2001 the United Nations will hold a World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance for which the Commission on Human Rights will be the preparatory body. Section V of Resolution 2000/14 details the preparations for the conference.

In his report to the 56th session of the Commission, the Special Rapporteur suggests that the Commission should continue to give priority to the preparation of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which should give a place of prime importance to education in the rights of the individual and the culture of tolerance, peace and non-violence.

Examining individual cases

The procedure for communications about individuals is similar to that used by other thematic mechanisms. The Special Rapporteur will transmit information concerning alleged violations to the state concerned, request that the allegations be investigated and that he be kept informed of the results.

SPECIAL RAPPORTEUR ON THE PROMOTION AND

⁴²See Document E/CN.4/2000/16
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PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION

Mandate and working method

The Special Rapporteur is mandated to report and make recommendations on discrimination, threats or use of violence, and harassment (including persecution and intimidation) directed against persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, and in particular against professionals in the field of information.

The Commission has expressed concern about the extensive occurrence of human rights violations directed at people who exercise the right to freedom of opinion and expression and the intrinsically linked rights to freedom of thought, conscience and religion, of peaceful assembly and freedom of association and the right to take part in the conduct of public affairs, and against those who promote the rights contained in the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) and seek to educate others about them or who defend these rights and freedoms. The Special Rapporteur has noted that such human rights violations may be facilitated or aggravated by factors such as abuse of states of emergency, exercise of powers specific to states of emergency without formal declaration and too vague a definition of offences against state security.

The Special Rapporteur has defined the right to freedom of opinion and expression as:⁴³

Opinion: each person should be free to hold any opinions, and hence be free from being influenced against his or her will by threat, coercion or the use of force.

Expression: This is the right to (i) seek and receive information and ideas of any kind, and (ii) impart these, through any media of one's choice. The right to freedom of expression can be restricted only for the following purposes:

- to respect the rights or reputations of others;
- to protect national security;
- to protect public order;
- to protect public health;
- to protect public morals.

Restrictions and limitations must have been formally and specifically enacted in law. Moreover, the restrictions should be in proportion to the legitimate purpose to be achieved.

⁴³This is based on Article 19 of the International Covenant of Civil and Political Rights.
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Handling of cases Handling of cases

Handling of cases Handling of cases The Special Rapporteur has prepared guidelines for the submission of information. These are:

- **Allegation regarding a person or persons:** as detailed a description as possible, including name, age, gender, ethnic background (if relevant), profession, affiliations, past or present participation in political, social, ethnic or labour group/activity and information on other specific activities relating to the alleged violation.
- **Allegation regarding a medium of communication:** as detailed a description of the alleged infringement of the right as possible, including date, location and circumstances of the event; the nature of the medium affected (such as newspapers, independent radio); including circulation and frequency of publication or broadcast, public performance etc; political orientation of the media (if relevant).
- **Information regarding the alleged perpetrators:** name, state affiliation (for example, military police) and reasons why they are considered responsible. For non-state actors, description of how they relate to the state (for example, co-operation with or support by state security forces); if applicable, state encouragement or tolerance of activities of non-state actors, whether groups or individuals, including threats or use of violence and harassment against individuals exercising their right to freedom of opinion and expression, including the right to seek, receive and impart information.
- **Information related to state action:** the identity of the authority involved (individual and/or ministry and/or department), the legal statute invoked, and steps taken to seek domestic remedy. If the incident involves an arrest or detention, the identity of the authority involved, the law invoked, location of detention if known, information on provision of access to a lawyer and family members, steps taken to seek domestic remedy or clarification of persons, situation and status. If applicable, information on whether or not an investigation has taken place and, if so, by what ministry or department of the government and the status of the investigation at the time of submission of the allegation, including whether or not the investigation has resulted in indictments.

Examining individual cases

The Special Rapporteur has summarized guidelines for the submission of information in his report to the Commission in 1999.⁴⁴ He is particularly interested in receiving information on

⁴⁴See UN Document E/CN.4/1999/64
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problems and violations related to:

- detention of, discrimination against, or threats or use of violence and harassment, including persecution and intimidation, directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, including professionals in the field of information;
- activities of political opposition parties and trade union activists, whether a group or an individual;
- actions against the media (print and broadcast) or impediments to their independent operation;
- actions against publishers and performers in other media, including books, magazines, film and theatre and the studio arts;
- activities of human rights defenders (e.g. lawyers, community activists);
- women's human rights, within the context of obstacles – including laws and practices – which impede the right of women to express their views and be heard, participate in the decision-making process, have equal standing before the law, and seek and receive information on matters of particular relevance to them such as family planning and violence against women;
- obstacles to access to information at the local, regional and national levels on projects and initiatives proposed by the Government to advance the right to development and obstacles to participate in the decision-making process, as well as obstacles to access to information on other subjects such as environmental and health impact studies, national budgets, social spending, industrial development projects and trade policies.

Information on the source of the communications: name, full address, telephone, fax numbers and e-mail address (if possible). Where considered necessary by the Special Rapporteur or requested, information on the source of the allegations will be treated as confidential.

In addition to the information requested above, the Special Rapporteur welcomes any additional comments or background notes that are considered relevant to the case or incident. He attaches great importance to being kept informed of the status of cases and thus welcomes updates of previously reported cases and information. This includes both negative and positive developments including the release of persons detained for exercising their rights to freedom of opinion and expression and, or the adoption of new laws, policies or changes to existing ones that have a positive impact on the realization of the rights to freedom of opinion and expression.

Update 2000 Commission

The Commission in Resolution 2000/38 drew to the attention of Governments the Principles on Freedom of Information Legislation (The Public's Right to Know) appended to the Special Rapporteur's report and invited governments to reflect upon them and to submit their comments to the Special Rapporteur. The Principles were developed by the non-governmental organization Article 19. The Principles are based on international and regional law and standards, evolving State practice, and the general principles of law recognized by the community of nations. The Special Rapporteur emphasizes in his latest report to the Commission his continuing concern about the tendency of Governments, and the institutions of Governments, to withhold information from people which should be made available, as the decisions of Governments and the implementation of policies by public institutions have a direct and often immediate impact on their lives and may not be undertaken without their formal consent. The Special Rapporteur endorses the Principles.

The Special Rapporteur expressed his concern at the silencing of women by various devices, including discriminatory rules and conventions. He noted that education continues to improve and women's participation in the workforce has increased. However, the Special Rapporteur urged Governments to take all necessary steps to remove formal and cultural obstacles which might impede the exercise by women of their right to freedom of expression. The Special Rapporteur reiterated his hope to be able to prepare a report jointly with the Special Rapporteur on violence against women to be submitted to the Commission next year and invited submissions by Governments, intergovernmental organizations and specialized agencies as well as non-governmental bodies in this regard.

SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES

Mandate and methods of work

The Special Rapporteur is mandated to seek information on violence against women, study its causes and consequences, to respond effectively on such information, and to recommend appropriate measures to halt its occurrence. The Special Rapporteur has emphasized that she

is only in a position to process cases of alleged violence against women that are gender-specific, that is violence or threats of violence directed against women because of their gender.

The Special Rapporteur's mandate on gender-based violence against women is taken from the UN Declaration on the Elimination of Violence Against Women (1993), Article 2 of which states:

“Violence against women should be understood to encompass, but not to be limited to, the following:

Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs” .

This last category includes:

- **Custodial violence:** violence against women held in custody by government agents (including custody as a result of a "disappearance");
- **Armed conflict:** violence against women in situations of armed conflict, including rape and sexual torture, either as a deliberate policy (ethnic cleansing), or as a result of instability due to war;
- **Refugees and displaced women:** violence against women as a result of their increased vulnerability as refugees or internally displaced people.

The Special Rapporteur's reports to the Commission have covered the different aspects of her mandate both as general studies and reports of country visits (see Appendix for details). Topics covered in her reports include:

- the nature of violence against women and relevant international standards;
- domestic violence;
- violence in the community including rape, trafficking and forced prostitution;
- a framework for model legislation on domestic violence;
- violence against women in armed conflict;

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- violence against women in the family;
- violence against women in custody.
- migration and trafficking

Examining individual cases

Information concerning one or more individuals identified by name, or information relating to a more general nature of a prevailing situation condoning or perpetrating violence against women may be submitted to the Special Rapporteur. However, she has emphasized that information sent to her often lacks sufficient detail for her to take the appropriate action.

Urgent action procedure

The Special Rapporteur will issue *urgent appeals in cases* of imminent threats, or fear of threat, to, the right of life. In such cases, she urges the government not only to provide comprehensive information on the case but also to carry out an independent and impartial investigation into the case and take immediate action to ensure that no further violations of the human rights of women are incurred.

To facilitate the submission of information, the Special Rapporteur has prepared a standard format for reporting alleged cases of gender-based violence against women which can be obtained from the website of the Office of the High Commissioner for Human Rights (<http://www.unhchr.ch>).

SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS

Mandate and working method

The Special Rapporteur's work is based on standards contained in the International Covenant on Civil and Political Rights (1966), the Basic Principles on the Independence of the Judiciary (1985), the Basic Principles on the Role of Lawyers (1990) and the Guidelines on the Role of Prosecutors (1990). The Special Rapporteur carries out his mandate in cooperation with other UN bodies notably the UN Centre for International Crime Prevention. He is collaborating with the Office of the High Commissioner for Human Rights to develop a training manual for judges and lawyers in the context of the current UN Decade for Human Rights Education.

The Special Rapporteur's mandate is to:

- enquire into any substantial allegations transmitted to him and report on his conclusions;
- identify and record not only attacks on the independence of the judiciary, lawyers and court officials but also progress achieved in protecting and enhancing their independence, and make recommendations including the provision of advisory services or technical assistance when they are requested by the State concerned;
- study, for the purposes of making proposals, important and topical questions of principle with a view to protecting and enhancing the independence of judges and lawyers.

Principles of independence and impartiality of judges and lawyers include:

- everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures;
- objectivity is to be secured with respect to the appointment and conditions of service of the judiciary and of prosecutors; the judiciary shall have guaranteed tenure;
- subject to certain exceptions, judges should enjoy personal immunity from civil suits for monetary damages for improper acts or omissions in the exercise of their judicial functions;
- prosecutors should consider the views of victims, and ensure that they are informed of their rights;
- prosecutors shall not initiate or continue prosecution, or shall make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded;
- prosecutors shall give due attention to the prosecution of crimes committed by public officials;
- if evidence has been obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, then the prosecutors shall use this evidence only against those who used such methods, or inform the Court accordingly, and take all steps to ensure that those responsible for using such methods are brought to justice;
- all persons, including the poor and other disadvantaged groups, shall have the possibility to call upon the assistance of a lawyer. In criminal justice matters, all persons must be immediately informed of their right to be assisted by a lawyer; they are entitled to have a lawyer of experience and competence commensurate with the nature of the alleged offence in order to provide effective legal assistance; adequate opportunities, time and facilities must be provided to communicate and consult with a lawyer, in full confidentiality (not within the hearing of law enforcement officials);
- detained persons shall have prompt access to a lawyer, and in any event not later than 48 hours from the time of arrest or detention;
- lawyers should have timely access to appropriate information; such access should be

provided as early as possible;

➤ governments shall respect the confidentiality of communications and consultations between lawyers and their clients;

➤ governments are to ensure that lawyers can perform their functions free from intimidation, harassment or improper interference, are able to travel and to consult with their client, and do not suffer sanctions for appropriate actions.

Examining individual cases

The procedure for communications about individuals is similar to that used by other thematic mechanisms. The Special Rapporteur will transmit information concerning alleged violations to the government concerned – as an *urgent appeal* if appropriate, request that the allegations be investigated and that he be kept informed of the results.

SPECIAL RAPPORTEUR ON ADVERSE EFFECTS OF THE ILLICIT MOVEMENT AND DUMPING OF TOXIC AND DANGEROUS PRODUCTS AND WASTES ON THE ENJOYMENT OF HUMAN RIGHTS

Mandate and working method

The mandate of the Special Rapporteur is to:

➤ undertake, in consultation with the relevant UN bodies and organization and the secretariats of relevant international conventions, a global, multi-disciplinary and comprehensive study of existing problems of and solutions to illicit traffic in and dumping of toxic and dangerous products and wastes, particularly in developing countries;

➤ make recommendations and proposals on adequate measures to control, reduce and eradicate these phenomena;

➤ provide the Commission with information on persons killed, maimed or otherwise injured in the developing countries through the illicit movement and dumping of toxic and dangerous products and wastes;

➤ provide governments with an appropriate opportunity to respond to allegations transmitted to her and reflected in her report and to have their observations reflected in her report to the Commission.

The Special Rapporteur's 1999 recommendations⁴⁵ contain a number of points of particular relevance to NGOs. She has requested authors of communications to endeavour to provide detailed information in the submission of complaints, in particular to try to identify the countries of origin and the transnational corporation allegedly engaging in matters covered by her mandate and to identify any victims and specify which human rights have allegedly been violated. The Special Rapporteur also asked for information as to whether internal judicial remedies are adequate and efficient and whether they have been exhausted. The Special Rapporteur additionally drew the attention of NGOs and others to the dangers of the alleged disposal of dangerous products and outdated medicaments in the context of emergency humanitarian assistance operations. Lastly, she noted that the public at large, NGOs and local bodies responsible for environmental problems and human rights are not sufficiently familiar with her mandate: to this end she has requested the Office of the High Commissioner for Human Rights to publicize her mandate including by the dissemination of a brochure and practical information on an internet site.

The Special Rapporteur's most recent report⁴⁶ includes information on her activities including a workshop on gender integration; a summary of comments submitted to her by governments, intergovernmental and non-governmental organizations; a review of cases and incidents submitted to her; and follow-up to field missions. Her conclusions and recommendations include the absence of any tangible results regarding a solution to proven cases of illicit transfer of toxic products; continuing and alarming cases related to the intense and uncontrolled use of chemical substances, toxic agricultural products and persistent organic pollutants; and the urgent need to deal with the problems that arise from the export of contaminated ships due for scrapping to developing countries.

The Commission's resolution,⁴⁷ among other points, invites the Special Rapporteur to include in her next report information on:

- (a) Persons killed, maimed or otherwise injured in developing countries through the illicit movement and dumping of toxic and dangerous products and waste;
- (b) The question of the impunity of the perpetrators, including racially motivated discriminatory practises, and recommendations for ending such measures;

⁴⁵See UN Document E/CN.4/1999/46

⁴⁶UN Document E/CN.4/2000/50

⁴⁷Resolution 2000/72

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- (c) The question of rehabilitation and assistance to victims;
- (d) The scope of national legislation in relation to transboundary movement and dumping of toxic and dangerous products and waste.

The Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights considered a proposal that this mandate should be converted into a special rapporteur on human rights and the environment. Since the mandate is due to be renewed at the 57th session of the Commission, the Working Group recommended that the Commission should be prepared to consider a broadening of the mandate at that time. It noted that the subject matter of an extended mandate would need to be more precisely defined than “human rights and the environment”.

SPECIAL REPRESENTATIVE OF THE SECRETARY GENERAL ON CHILDREN AND ARMED CONFLICT

Mandate and working method

In 1996 Graça Machel (Mozambique), the UN Secretary-General’s first Independent Expert on this subject, submitted her report on the impact of armed conflict on children to the General Assembly. In response, the General Assembly asked the Secretary-General to appoint a Special Representative to continue the study. Thus the Special Representative of the Secretary General on Children and Armed Conflict, unlike any other thematic mechanism, presents his or her main report to the annual session of the General Assembly, and an interim report to the Commission.

The present Special Representative has noted⁴⁸ that a serious and systematic effort is needed by all concerned parties – from governments to the UN system and from civil society organizations to private citizens – to address the abominations being directed against children in the context of armed conflict. His role is to spearhead the effort to combine normative, political and humanitarian strategies in efforts to promote prevention, protection and rehabilitation for the benefit of children. His 1999 report included a detailed description of the issues he is exploring and the tasks he is undertaking. These range from a summary of relevant international norms to reports of his visits that year to affected countries: the Federal Republic of Yugoslavia (Kosovo), Liberia, Sierra Leone, Sri Lanka and the Sudan plus two assessment visits to Afghanistan.

His report to the 56th session of the Commission⁴⁹ addressed topics including the elimination of child soldiering in the context of the new optional protocol to the Convention on the Rights of the Child; country visits to obtain commitments from parties to a conflict to take

48UN Document E/CN.4/1999/58.

49UN Document E/CN.4/2000/71

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various measures for the protection of children (Sierra Leone, Guinea and Colombia); the need for states to ratify the Rome Statute of the International Criminal Court or otherwise to ensure universal jurisdiction for egregious violations of child rights in the context of armed conflict; the need for all reports to the Commission to include information on the fate of war-affected children; and the need for the Office of the High Commissioner for Human Rights to systematically integrate children's rights into all its activities.

The Special Representative paid particular attention to Security Council Resolution 1261 (1999) which provides a most important tool for advocacy on behalf of children affected by conflict. He proposed three specific elements for incorporating the protection and welfare of children into peace operations: explicit reference to the rights and protection of children in the mandates of relevant UN peace operations; Child Protection Advisers to be attached on all such missions; and training to be provided on children's rights to all peacekeeping personnel. The Special Representative also commended to the Commission for discussion and action the 18 recommendations he made in his 1999 report to the UN General Assembly.⁵⁰

The Commission's resolution on the rights of the child⁵¹ includes a recommendation that the Special Representative and the relevant parts of the UN system continue to develop a concerted approach on the rights, protection and welfare of children affected by armed conflict, and increase cooperation among their respective mandates and with national and international non-governmental organizations.

This mechanism does not take up individual cases.

SPECIAL RAPPORTEUR ON THE RIGHT TO EDUCATION

Mandate and working method

The Special Rapporteur's mandate is to:

- report on the status throughout the world of the progressive realization of the right to education, including access to primary education and the difficulties encountered in the implementation of this right;
- promote assistance to governments in working out and adopting urgent plans of action, wherever they do not exist, to secure the progressive implementation within a reasonable number of years of the principle of compulsory primary education free of charge for all;
- take into particular account gender considerations and the elimination of gender discrimination in education;

⁵⁰UN Document A/54/430

⁵¹Resolution 2000/85

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➤ develop a regular dialogue with relevant UN bodies and make her reports available to the Commission on the Status of Women.

The Special Rapporteur's first report⁵² dealt with primary education and began with a brief overview of the work carried out within the UN system to enhance access to primary education. Having examined the different terminology, concepts and approaches, the Special Rapporteur highlighted the increasing recognition of the financial obstacles to access to primary education. The second part of the report presented a scheme for the analysis of governments' human rights obligations. The third part of the report discussed compulsory education and the right and duty of the child and highlighted the question of what the right to education entailed. The Special Rapporteur stressed the importance of a gender approach to her mandate, commenting that "[e]limination of gender discrimination cuts across education and human rights as the goal as well as the yardstick, showing that the human rights approach can inform international educational strategies and be successfully translated into practice".⁵³

Her report to the 56th session of the Commission⁵⁴ focuses on international policies relating to financial obstacles impeding access to primary education; realization and legal enforcement of the right to education; and the changing legal status of education and the need to mainstream human rights. The Special Rapporteur has continued to use her "4-A" scheme (availability, accessibility, acceptability and adaptability) to analyze governmental obligations corresponding to the right to education, particularly on the issue of school fees in examining accessibility. She continues her approach to double mainstreaming (that is, merging human rights and gender through education), by discussing acceptability of school discipline that makes pregnancy a disciplinary offence leading to expulsion. The final section of the report addresses implications of the human-capital approach and international trade in education services for human rights.

This mechanism does not take up individual cases.

INDEPENDENT EXPERT ON HUMAN RIGHTS AND EXTREME POVERTY

Mandate and working method

At its 1998 session, the Commission decided to appoint for two years an Independent Expert on human rights and extreme poverty; this mandate was renewed in 2000. The Independent Expert was mandated to evaluate the relationship between the promotion and protection of human rights and extreme poverty, with particular reference to the obstacles encountered and

⁵²See UN Document E/CN.4/1999/49.

⁵³Statement by the Special Rapporteur to the Commission, 8 April 1999.

⁵⁴UN Document E/CN.4/2000/6

progress made by women in this regard; to make proposals relating to the UN Technical Assistance program; and make proposals for a draft declaration on human rights and extreme poverty.

The Independent Expert's report to the 56th session of the Commission⁵⁵ discussed extreme poverty as a denial of all human rights; action taken by the various development actors to realise the rights of the extremely poor; and the components in technical cooperation projects needed to establish respect for the rights of the poorest of the poor. Her recommendations include:

- The establishment of a world alliance for the eradication of extreme poverty, which would bring together all the main development actors;
- The evaluation by the Bretton Woods institutions of the social impact of their policies on the poorest communities;
- The responsibility of the state and promotion of good governance through national capacity building;
- All legislation should establish the right of all persons falling within its scope to a guaranteed minimum income;
- The development of special measures to help the poorest communities, in particular women, children, the elderly and ethnic minorities.

The Commission asked the High Commissioner for Human Rights to organize, before its next session, a seminar to discuss the need for the development of a draft declaration on extreme poverty. It proposed that interested non-governmental organizations should be among those invited to this seminar.

This mechanism does not take up individual cases

INDEPENDENT EXPERT ON THE RIGHT TO DEVELOPMENT

Mandate and working method

A Working Group on the right to development, established in 1993, was replaced in 1996 by an intergovernmental working group, appointed for two years, to elaborate a strategy for the implementation and promotion of the right to development. An open-ended working group was appointed to meet for five days annually and an Independent Expert was mandated to present to the annual session of the working group a study on the current state of progress in the implementation of the right to development.

⁵⁵UN Document E/CN.4/2000/52

In his 1999 report to the Commission⁵⁶ the Independent Expert briefly discussed the relevant articles of the Declaration on the Rights to Development (1986) . He outlined the steps he will undertake to produce analytical materials for the Working Group. These include preparing case studies on states which have experienced financial, economic or social turbulence and which have received international financial assistance, and to analyze this material in terms of the achievement of the right to development. He will invite governments, UN agencies and regional and sub-regional economic and social organizations to submit information. In addition, he will ask leading human rights organizations in consultative status with the UN to submit information relevant to the elimination of obstacles to development resulting from failure to observe civil and political rights as well as social and economic rights.

The Commission's resolution⁵⁷, adopted at its 56th session, confirms that the Independent Expert's mandate includes presenting to the Working Group at each of its sessions a study of the current state of implementation of the right to development. The Working Group is mandated to hold two five day meetings before each session of the Commission, the first to be held before the end of September 2000.

This mechanism does not take up individual cases.

EXPERT TO PREPARE A REVISED VERSION OF THE BASIC PRINCIPLES AND GUIDELINES ON THE RIGHT TO RESTITUTION, COMPENSATION AND REHABILITATION FOR VICTIMS OF GROSS HUMAN RIGHTS VIOLATIONS

Mandate and working method

In 1998 the Commission decided to appoint an Expert to prepare a revised version of the basic principles and guidelines that had been drawn up by the Sub-Commission on Promotion and Prevention of Human Rights. The Expert presented his final report to the last session of the Commission, to which the revised Basic Principles and Guidelines are appended.⁵⁸

The Commission asked the UN Secretary General to circulate this text to all member states and the High Commissioner for Human Rights to hold a consultative meeting for all interested governments, intergovernmental and non-governmental organizations (providing the latter have consultative status with the Economic and Social Council) to finalize the principles and guidelines. The High Commission will report back to the 2001 session of the Commission on the outcome of this meeting. The mandate of the Special Rapporteur was not renewed.

⁵⁶See UN Document E/CN.4/1999/118

⁵⁷Resolution 2000/5

⁵⁸UN Document E/CN.4/2000/62

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INDEPENDENT EXPERT ON THE EFFECTS OF STRUCTURAL ADJUSTMENT POLICIES AND FOREIGN DEBT ON THE FULL ENJOYMENT OF HUMAN RIGHTS, PARTICULARLY ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Mandate and working method

This is a new mandate resulting from the amalgamation of the work of the Independent Expert on structural adjustment and the Special Rapporteur on the effects of foreign debt on the full enjoyment of economic, social and cultural rights. Taking into account the related nature of structural adjustment and foreign debt, the Special Rapporteur and the Independent Expert had prepared a joint report to this session of the Commission⁵⁹ entitled “Debt relief and social investment: linking the heavily indebted poor countries (HIPC) initiative to the HIV/AIDS epidemic in Africa, post-Hurricane Mitch reconstruction in Honduras and Nicaragua, and the Worst Forms of Child Labour Convention, 1999 (Convention No.182) of the International Labour Organization”.

The mandate of the new Independent Expert is to prepare an annual report to the Commission paying particular attention to the following areas⁶⁰:

- (a) The effect of foreign debt and the policies adopted to face them on the full enjoyment of all human rights, particularly economic, social and cultural rights in developing countries;
- (b) Measures taken by governments, the private sector and international financial institutions to alleviate such effects in developing countries, especially the poorest and heavily indebted countries;
- (c) New developments, actions and initiatives being taken by international financial institutions, other UN bodies and intergovernmental and non-governmental organizations with respect to structural adjustment policies and human rights.

This mechanism does not take up individual cases.

SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS

Mandate and working method

This mandate was created by the Commission in 1999.⁶¹ The Special Rapporteur’s first report⁶² describes her activities and the context of the feminization of migration and the

59UN Document E/CN.4/2000/51

60Resolution 2000/82

61Resolution 1999/44

62UN Document E/CN.4/2000/82

international community's growing interest in the phenomenon. That description is followed by an outline of her work program, the main purpose of which is to collect information for future reports to the Commission from all sectors, including migrants themselves, and will include a gender perspective.

The second part of her report is devoted to an initial examination of the international instruments available for the protection of the human rights of migrants and highlights the lack of a comprehensive definition of existing categories of migrants. Special emphasis is placed on the need to take account of the problems of trafficking in persons (not only for the purposes of prostitution) and the implications of returning undocumented migrants to their places of origin.

The Special Rapporteur identified areas for further research: the link between migration and the increase in racism, discrimination and intolerance, and a more detailed description of the issues surrounding women migrants. This section is followed by observations on migration issues as they affect children. The report concludes with preliminary conclusions and some recommendations.

The Commission asked the Special Rapporteur to request, receive and exchange information on the human rights of migrants with governments, a wide range of UN bodies and non-governmental organizations.⁶³ The resolution welcomes the active role played by governmental and non-governmental organizations in combatting racism and assisting individual victims of racist acts, including migrant workers.

This mechanism does not take up individual cases.

SPECIAL RAPPORTEUR ON THE RIGHT TO ADEQUATE HOUSING

Mandate and working method

This mandate was established by the Commission in 2000.⁶⁴ At the time of writing, the Special Rapporteur had not yet been appointed.

The mandate is to focus on aspects related to the right to adequate housing contained in the right to an adequate standard of living as reflected in international standards including Article 25(1) of the Universal Declaration of Human Rights; Article 11(1) of the International Covenant on Economic, Social and Cultural Rights; Article 14(h) of the Convention on the

⁶³Resolution 2000/48

⁶⁴Resolution 2000/9

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Elimination of All Forms of Discrimination against Women; Article 27(3) of the Convention on the Rights of the Child; and Article 5(e) of the International Convention on the Elimination of All Forms of Racial Discrimination, “including the question of secure tenure and forced evictions”.

The Special Rapporteur is also requested to apply a gender perspective to his/her work; develop a regular dialogue with governments, relevant UN bodies and non-governmental organizations; and prepare a report for the next session of the Commission.

This mechanism does not take up individual cases.

SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD

Mandate and working method

This mandate was established by the Commission in 2000.⁶⁵ At the time of writing, the Special Rapporteur had not yet been appointed.

The mandate of the Special Rapporteur is to seek, receive and respond to information on all aspects of the realization of the right to food, including the urgent necessity of eradicating hunger. S/he is asked to establish cooperation with governments, intergovernmental and non-governmental organizations, and to make recommendations on the realization of this right taking into account the work already done on this subject throughout the UN system. This will include General Comment No 12 of the Committee on Economic Social and Cultural Rights, adopted in May 1999, in which the Committee confirmed that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other rights.

This mechanism does not take up individual cases

SPECIAL REPRESENTATIVE OF THE SECRETARY GENERAL ON HUMAN RIGHTS DEFENDERS

Mandate and working methods

Resolution 2000/61 created a special representative on human rights defenders. At the time of writing, the Special Representative had not yet been appointed.

The special representative will report on the situation of human rights defenders in all parts of

⁶⁵Resolution 2000/10

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the world and on possible means to enhance their protection in full compliance with the 1998 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (commonly known as the Declaration on human rights defenders). The main activities of the special representative shall be:

- (a) To seek, receive, examine and respond to information on the situation and the rights of anyone, acting individually or in association with others, to promote and protect human rights and fundamental freedoms;
- (b) To establish cooperation and conduct dialogue with Governments and other interested actors on the promotion and effective implementation of the Declaration;
- (c) To recommend effective strategies better to protect human rights defenders and follow up on these recommendations.

Appendix:

On-site visits carried out by the thematic mechanisms since 1982 and reports of the visits.

Working Group on Enforced and Involuntary Disappearances

Mexico, January 1982 (Report contained in UN document E/CN.4/1435/Add.1)

Cyprus, July 1982 (E/CN.4/1983/14)

Bolivia, November 1984 (E/CN.4/1985/15)

Peru, June 1985 (E/CN.4/1986/Add.1)

Peru, October 1986 (E/CN.4/1987/15/Add.1)

Guatemala, October 1987 (E/CN.4/1988/19/Add.1)

Colombia, October/November 1988 (E/CN.4/1989/18/ Add.1)

The Philippines, August/September 1990 (E/CN.4/1991/20/ Add.1)

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Sri Lanka, October 1991 (E/CN.4/1992/18/Add.1)

Sri Lanka, October 1992 (E/CN.4/1993/25/Add.1)

Former Yugoslavia, August 1993 (E/CN.4/1994/26/Add.1)

Former Yugoslavia, July 1994 (E/CN.4/1995/37)

El Salvador, September 1995 (E/CN.4/1996/38)

Former Yugoslavia, January/February 1996 (E/CN.4/1996/36)

Former Yugoslavia, every month from March to December 1996 (E/CN.4/1996/55 and Corr.1)

Democratic Republic of the Congo (E/CN.4/1998/64) with the Special Rapporteurs on the situation of human rights in Zaire and on extrajudicial, summary or arbitrary executions. Note the delegation was denied entry to the Democratic Republic of Congo.

Republic of Yemen, August 1998 (E/CN.4/1999/62/Add.1)

Turkey, September 1998 (E/CN.4/1999/62/Add.2)

Sri Lanka, October 1999 (E/CN.4/2000/64/Add.1)

Special Rapporteur on extrajudicial, summary or arbitrary execution

Surinam, July 1984 (E/CN.4/1985/17)

Uganda, August 1986 (E/CN.4/1987/20)

Surinam, August 1987 (E/CN.4/1988/22)

Colombia, October 1989 (E/CN.4/1990/22/Add.1)

Zaire, May 1991 (E/CN.4/1992/30/Add.2)

Former Yugoslavia, August 1992 (E/CN.4/1992/S-1/9); October 1992 (E/CN.4/1992/S-1/10); December 1992 (E/CN.4/1993/5) - with the Special Rapporteur on the former Yugoslavia and other thematic experts

Rwanda, April 1993 (E/CN.4/1994/7/ Add.1)

Peru, May/June 1993 (E/CN.4/1994/7 /Add.2)

Rwanda, June 1994, joint visit with the Special Rapporteurs on Rwanda and torture (E/CN.4/1995/7)

Indonesia/East Timor, July 1994 (E/CN.4/1995/61/Add.1)

Colombia, October 1994 (E/CN.4/1995/11) (joint visit with the Special Rapporteur on

torture)

Burundi, April 1995 (E/CN.4/1996/4/Add.1)

Papua New Guinea, island of Bougainville, October 1995 (E/CN.4/1996/4/Add.2)

Democratic Republic of the Congo (E/CN.4/1998/64) with the Special Rapporteurs on the situation of human rights in Zaire and the Working Group on Enforced or Involuntary Disappearances Note the delegation was denied entry to the Democratic Republic of Congo.

Sri Lanka, August/September 1997 (E/CN.4/1998/68/Add.2)

United States of America, September/October 1997 (E/CN.4/1998/68/Add.3)

Macedonia and Albania, May 1999 (E/CN.4/2000/3/Add.2)

Mexico, July 1999 (E/CN.4/2000/3/Add.3)

East Timor, November 1999 (A/54/660) - joint visit with the Special Rapporteur on torture and the Special Rapporteur on violence against women

Special Rapporteur on torture

Argentina, Colombia, Uruguay, December 1987 (E/CN.4/1988/17/Add.1)

Peru, April 1988 (E/CN.4/1989/15)

Turkey, August/September 1988 (E/CN.4/1989/15)

Republic of Korea, September 1988 (E/CN.4/1989/15)

Guatemala, September 1989 (E/CN.4/1990/17)

Honduras, September 1989 (E/CN.4/1990/17)

Zaire, January 1990 (E/CN.4/1990/17 Add.1)

The Philippines, October 1990 (E/CN.4/1991/17)

Indonesia and East Timor, November 1991 (E/CN.4/1992/17 /Add.1)

Former Yugoslavia, October 1992 (E/CN.4/1993/26 and E/CN.4/1992/S-1/10), with the Special Rapporteur on the Former Yugoslavia and other thematic experts

Russian Federation, July 1994 (E/CN.4/1995/34/Add.1)

Rwanda, June 1994 (E/CN.4/1995/7) - joint visit with Special Rapporteurs on Rwanda and extrajudicial summary or arbitrary executions

Colombia, October 1994 (E/CN.4/1995/111) - joint visit with Special Rapporteur on extrajudicial, summary and arbitrary executions

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Chile, August 1995 (E/CN.4/1996/35/Add.2)

Pakistan, February/March 1996 (E/CN.4/1997/7/Add.2)

Venezuela, June 1996 (E/CN.4/1997/7/Add.3 and Corr.1)

Portugal, in respect of East Timor, September 1996 (E/CN.4/1997/7)

Mexico, August 1997 (E/CN.4/1998/38/Add.2)

Turkey, November 1998 (E/CN.4/1999/61/Add.1)

Romania, April 1999 (E/CN.4/2000/9/Add.2)

Cameroon, May 1999 (E/CN.4/2000/9/Add.3)

Kenya, September 1999 (E/CN.4/2000/9/Add.4)

Special Rapporteur on religious freedom and belief

Bulgaria, October 1987 (E/CN.4/1998/95)

USSR (Moscow and Zagorsk), June 1988 (E/CN.4/1999/44)

People's Republic of China, November 1994 (E/CN.4/1995/91)

Pakistan, June 1995 (E/CN.4/1996/95/Add.1)

Islamic Republic of Iran, December 1995 (E/CN.4/1996/95/Add.2)

Greece, June 1996 (E/CN.4/1997/91)

Sudan, September 1996 (E/CN.4/1997/91)

India, December 1996 (E/CN.4/1997/91/Add.1)

Australia, February 1997 (E/CN.4/1998/6/Add.1)

Germany, December 1997 (E/CN.4/1998/6/Add.2)

USA, January 1998 (E/CN.4/1999/58/Add.1)

Viet Nam, October 1998 (E/CN.4/1999/58/Add.2)

Holy See, September 1999 (E/CN.4/2000/65)

Special Rapporteur on the use of mercenaries Special Rapporteur on the use of

mercenaries as a means of impeding the exercise of the right of peoples to self-determination

Angola, August 1998 (A/43/735)

Nicaragua, December 1988 (E/CN.4/1989/14)

USA, July 1989 (A/44/526)

Maldivas, June 1990 (E/CN.4/1991/14)

Special Rapporteur on the use of mercenaries **Special Rapporteur on the use of mercenaries** Republic of Croatia and Federal Republic of Yugoslavia (Serbia and Montenegro), September 1994 (E/CN.4/1995/29)

South Africa, November 1996 (E/CN.4/1997/24)

United Kingdom, January 1999 (A/54/326)

Cuba, September 1999 (E/CN.4/2000/14)

Special Rapporteur on the sale of children, child prostitution and child pornography

Brazil, January 1992 (E/CN.4/1992/55/Add.1)

Australia, October 1992 (E/CN.4/1993/67/Add.2)

Nepal, June 1993 (E/CN.4/1994/84/Add.1)

Czech Republic, May 1996 (E/CN.4/1997/95/Add.1)

USA, December 1996 (E/CN.4/1997/95/Add.2)

Kenya, August 1997 (E/CN.4/1998/101/Add.1)

Mexico, November 1997 (E/CN.4/1998/101/Add.2)

UN Thematic Mechanisms 1

Laos, September 1998 (E/CN.4/1999/71/Add.1)

Belgium and Netherlands, December 1998 (E/CN.4/2000/73/Add.1)

Guatemala, July 1999 (E/CN.4/2000/73/Add.2)

Republic of Fiji, October 1999 (E/CN.4/2000/73/Add.3)

Working Group on Arbitrary Detention

Former Yugoslavia, August 1992 (E/CN.4/1992/S-1/9); October 1992 (E/CN.4/1992/S-1/10)
- with the Special Rapporteur on the former Yugoslavia and other thematic experts

Bhutan, October 1994 (E/CN.4/1995/31/Add.3)

Vietnam, October 1994 (E/CN.4/1995/31/Add.4)

People's Republic of China, July 1996 (E/CN.4/1997/4) Preliminary visit

Nepal-Bhutanese refugee camps, April 1996 (E/CN.4/1997/4/Add.2)

Bhutan, April/May 1996 (E/CN.4/1997/Add.3) follow-up visit

People's Republic of China October 1997 (E/CN.4/1998/44/Add.2)

Peru, January/February 1998 (E/CN.4/1999/63/Add.2)

United Kingdom, September 1998 (E/CN.4/1999/63/Add.3)

Romania, September/October 1998 (E/CN.4/1999/63/Add.4)

Indonesia January/February 1999 (E/CN.4/2000/4/Add.2)

***Profiles in Displacement* by the Special Rapporteur on internally displaced persons**

Former Yugoslavia, October 1992 (E/CN.4/1992/S-1/10 and E/CN.4/1993/35) - with the
Special Rapporteur on the former Yugoslavia and other thematic experts

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Russian Federation (E/CN.4/1993/35)

Somalia (E/CN.4/1993/35)

Sudan (E/CN.4/1993/35)

El Salvador (E/CN.4/1993/35)

Sri Lanka, November 1993 (E/CN.4/1994/44/Add.1)

Colombia, June 1994 (E/CN.4/1995/50/Add.1)

Burundi, September 1994 (E/CN.4/1995/50/Add.2)

Rwanda, December 1994 (E/CN.4/1995/50/Add.3)

Peru, August 1995 (E/CN.4/1996/52/Add.1)

Tajikistan, June 1996 (A/51/483/Add.1 and 2)

Mozambique, December 1996 (E/CN.4/1997/43/Add.1)

Azerbaijan, May 1998 (E/CN.4/1999/79/Add.1)

Colombia, 1999 (E/CN.4/2000/83/Add.1)

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

USA, October 1994 (E/CN.4/1995/78/Add.1)

Brazil, June 1995 (E/CN.4/1996/72/Add.1)

Germany, September 1995 (E/CN.4/1996/72/Add.2)

France, September/October 1995 (E/CN.4/1996/72/Add.3)

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United Kingdom and Northern Ireland, November 1995 (E/CN.4/1996/72/Add.4)

Colombia, June/July 1996 (E/CN.4/1997/71/Add.1)

Kuwait, June 1996 (E/CN.4/1997/71/Add.2)

South Africa, February/March 1998 (E/CN.4/1999/15/Add.1)

Hungary, the Czech Republic and Romania, September 1999 (E/CN.4/2000/16/Add.1)

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Malawi, October 1994 (E/CN.4/1995/32)

Republic of Korea, June 1995 (E/CN.4/1996/39/Add.1)

Islamic Republic of Iran, January 1996 (E/CN.4/1996/39/Add.2)

Turkey, September 1996 (E/CN.4/1997/31/Add.1)

Republic of Belarus, May/June 1997 (E/CN.4/1998/40/Add.1)

Poland, May 1998 (E/CN.4/1998/40/Add.2)

Sudan, September 1999 (E/CN.4/2000/63/Add.1)

Republic of Ireland, October 1999 (E/CN.4/2000/63/Add.2)

United Kingdom of Great Britain and Northern Ireland, October 1999 (E/CN.4/2000/64/Add.3)

Tunisia, December 1999 (E/CN.4/2000/63/Add.4)

Special Rapporteur on violence against women, its causes and consequences

Democratic People's Republic of Korea, Republic of Korea and Japan, July 1995 (E/CN.4/1996/53/Add.1 and Corr.1) - *Military sexual slavery in wartime*
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Poland, May/June 1996 (E/CN.4/1997/47/Add.1)- *Trafficking and forced prostitution of women*

Brazil, July 1996 (E/CN.4/1997/47/Add.2) - *Domestic violence*

South Africa, October 1996 (E/CN.4/1997/47/Add.3) - *Rape in the community*

Rwanda, September/November 1997 (E/CN.4/1998/54/Add.1) *Violence against women in situations of armed conflict*

USA, May/June 1998 (E/CN.4/1999/68/Add.2) *Violence against women in state and federal prisons*

Indonesia & East Timor, November/December 1998 (E/CN.4/1998/68/Add.3)

Cuba, June 1999 (E/CN.4/2000/68/Add.2)

Haiti, June 1999 (E/CN.4/2000/68/Add.3)

Pakistan and Afghanistan, September 1999 (E/CN.4/2000/68/Add.4)

Special Rapporteur on the independence of judges and lawyers

Peru, September 1996 (E/CN.4/1998/39/Add.1)

Colombia, September 1996 (E/CN.4/1998/39/Add.2)

Nigeria (E/CN.4/1997/62 and E/CN.4/1997/62/Add.1) Note: these reports were published despite the cancellation of a mission to Nigeria

Belgium, October 1997 (E/CN.4/1998/39/Add.3)

United Kingdom, October 1997 (E/CN.4/1998/39/Add.4)

Guatemala, August 1999 (E/CN.4/2000/61/Add.1)

Special Rapporteur on adverse effects of the illicit movement and dumping of toxic and dangerous products and waste on the enjoyment of human rights

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Netherlands and Germany, (E/CN.4/2000/50/Add.1)

Special Rapporteur on the right to education

Uganda, July 1999 (E/CN.4/2000/6/Add.1)

United Kingdom of Great Britain and Northern Ireland, October 1999
(E/CN.4/2000/6/Add.2)